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10/522,187	09/21/2005	Tadayuki Kameyama	043168	1489
38834 7590 10/26/2010 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
EXAMINER				
MERLIN, JESSICA M				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

Office Action Summary

Application No.

10/522,187

Applicant(s)

KAMEYAMA ET AL.

Examiner

JESSICA M. MERLIN

Art Unit

2871

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date 2/26/2010
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the appeal brief filed on August 3, 2010, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:/David Nelms/

Supervisory Patent Examiner, Art Unit 2871

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection

is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-3 and 5-25 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-25 of copending Application No. 12/230372 in view of Kusumoto et al. (JP 2001-091736).

4. In regard to independent claim 1 of the instant application, copending application 12/230372 cites all of the limitations of claim 1 of the instant application, in claims 1 and 4 of

application 12/230372, except, "wherein the thickness of the polarizer is 5 to 40 μ m." However, Kusumoto et al. discloses this limitation as cited below.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1, 5-7, 9, 10, 14, 15, 17, 20, 21, 23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusumoto et al. (JP 2001-091736), an English translation of which is attached.**

In regard to claim 1, Kusumoto et al. discloses

a polarizer containing a dichroic material in a matrix (*see e.g. paragraph [0009] where it is noted that iodine or another dichroic material such as dye is in a matrix of a PVA polymer*).

Kusumoto et al. fails to explicitly disclose the limitations,

wherein an in-plane retardation at a measurement wavelength providing no absorption is in a range of 950 to 1350 nm,

wherein the thickness of the polarizer is 5 to 40 μ m, and

wherein the measurement wavelength is in a range of 800 to 1500 nm.

However, Kusumoto et al. does disclose an in plane retardation in the range of 100-1000nm at a measurement wavelength 900nm, which overlap applicant's claimed ranges (*see*

e.g. paragraph [0010]). Kusumoto et al. further discloses a thickness of the polarizer falls in the range 5-80 μm , which overlaps applicant's claimed range (*see e.g. paragraph [0011]*). Further, Kusumoto et al. notes that the absorption peaks of the polarizer film fall with the visible range (*see e.g. abstract*) rather than the near IR or IR. One of ordinary skill in the art would recognize that the iodine doped PVA film has substantially no absorption in the range claimed by the applicant. Further, it is noted that in the case where the claimed ranges "overlap or lie inside ranges disclosed by the prior art" a prima facie case of obviousness exists (*see e.g. MPEP 2144.05*). Also, one of ordinary skill in the art at the time of the invention would recognize utilizing the above ranges, since it has been held that where the general condition of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art.

Given the teachings of Kusumoto et al., it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the display device of Kusumoto et al. with wherein an in-plane retardation at a measurement wavelength providing no absorption is in a range of 950 to 1350 nm, wherein the thickness of the polarizer is 5 to 40 μm , and wherein the measurement wavelength is in a range of 800 to 1500 nm.

Doing so would provide a polarizing film that when utilized in a cross-Nichols configuration, provides a display having a high contrast and reproducibility of colors (*see e.g. abstract of Kusumoto et al.*).

In regard to claim 5, Kusumoto et al. discloses the above limitations, but fails to explicitly disclose the measurement wavelength is 1000 nm.

However, Kusumoto et al. does a measurement wavelength of 900nm, which is close to applicant's claimed value (*see e.g. paragraph [0010]*). One of ordinary skill in the art at the time of the invention would recognize utilizing a value close to applicant's claimed value, since it has been held that where the general condition of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. Further, it has been held that a prima facie case of obviousness exists where the claimed ranges and prior art ranges do not overlap by are close enough that one skilled in the art would have expected them to have the same properties. *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).

Given the teachings of Kusumoto et al., it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the display device of Kusumoto et al. with the measurement wavelength is 1000 nm.

Doing so would provide a polarizing film that when utilized in a cross-Nichols configuration, provides a display having a high contrast and reproducibility of colors (*see e.g. abstract of Kusumoto et al.*).

In regard to claim 6, Kusumoto et al. discloses the matrix is a polymer film (*see e.g. paragraph [0009]*).

In regard to claim 7, Kusumoto et al. discloses the polymer film is a polyvinyl alcohol film (*see e.g. paragraph [0009]*).

In regard to claim 9, Kusumoto et al. discloses an optical film (*see e.g. Figure 1 and abstract*) comprising the polarizer **1** according to claim 1.

In regard to claim 10, Kusumoto et al. discloses a transparent protective layer, and the transparent protective layer 2 is arranged on at least one surface of the polarizer 1 (*see e.g. Figure 1 and abstract*).

In regard to claim 14, Kusumoto et al. discloses at least the polarizer according to claim 1, wherein the polarizer is arranged on at least one surface of a liquid crystal cell (*see e.g. paragraph [0013]*).

In regard to claim 15, Kusumoto et al. discloses a liquid crystal display comprising the liquid crystal panel according to claim 14 (*see e.g. paragraph [0013]*).

In regard to claim 17, Kusumoto et al. discloses an image display device comprising at least the polarizer according to claim 1 (*see e.g. paragraph [0013]*).

In regard to claim 20, Kusumoto et al. discloses at least the optical film according to claim 9, wherein the optical film is arranged on at least one surface of a liquid crystal cell (*see e.g. paragraph [0013]*).

In regard to claim 21, Kusumoto et al. discloses a liquid crystal display comprising the liquid crystal panel according to claim 20 (*see e.g. paragraph [0013]*).

In regard to claim 23, Kusumoto et al. discloses an image display device comprising at least the polarizer according to claim 9 (*see e.g. paragraph [0013]*).

In regard to claim 26, Kusumoto et al. discloses the above limitations, but fails to explicitly disclose the thickness of the polarizer is 15 to 35 μ m.

However, Kusumoto et al. does disclose a thickness of the polarizer falls in the range 5-80 μ m, which overlaps applicant's claimed range (*see e.g. paragraph [0011]*). Further Kusumoto et al. notes that the absorption peaks of the polarizer film fall with the visible range

(see e.g. *abstract*) rather than the near IR or IR. One of ordinary skill in the art would recognize that the iodine doped PVA film has substantially no absorption in the range claimed by the applicant. Further, it is noted that in the case where the claimed ranges "overlap or lie inside ranges disclosed by the prior art" a prima facie case of obviousness exists (see e.g. *MPEP 2144.05*). Also, one of ordinary skill in the art at the time of the invention would recognize utilizing the above ranges, since it has been held that where the general condition of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art.

Given the teachings of Kusumoto et al., it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the display device of Kusumoto et al. with the thickness of the polarizer is 15 to 35 μ m.

Doing so would provide a polarizing film that when utilized in a cross-Nichols configuration, provides a display having a high contrast and reproducibility of colors (see e.g. *abstract of Kusumoto et al.*).

7. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusumoto et al. (JP 2001-091736) in view of Harita et al. (U.S. 2001/0039319 A1).

In regard to claim 2, Kusumoto et al. discloses all of the claimed limitations from above, but fails to disclose a differential retardation fluctuation (σ) at the measurement wavelength providing no absorption is in a range of 5 nm/mm to 5 nm/mm.

However, Harita et al. teaches a differential retardation fluctuation (σ) at the measurement wavelength providing no absorption is in a range of-5 nm/mm to 5 nm/mm (*see e.g. abstract and paragraph [0024]*).

Given the teachings of Harita et al., it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the polarizer of Kusumoto et al. with a differential retardation fluctuation (σ) at the measurement wavelength providing no absorption is in a range of-5 nm/mm to 5 nm/mm.

Doing so would provide a reduction in color irregularities due to fluctuations in film quality that results in an improved display quality.

In regard to claim 3, Kusumoto et al. discloses all of the claimed limitations from above, but fails to disclose the measurement wavelength providing no absorption, a distance between a measurement position providing a maximum value of the in-plane retardation and a measurement position providing a minimum value of the in-plane retardation is in a range not more than 10 mm or not less than 100 mm, and a difference between the maximum value and the minimum value (in-plane retardation variation) is less than 60 μm .

However, Harita et al. teaches the measurement wavelength providing no absorption, a distance between a measurement position providing a maximum value of the in-plane retardation and a measurement position providing a minimum value of the in-plane retardation is in a range not more than 10 mm or not less than 100 mm, and a difference between the maximum value and the minimum value (in-plane retardation variation) is less than 60 μm (*see e.g. paragraph [0024]*).

Given the teachings of Harita et al., it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the polarizer of Kusumoto et al. with a measurement position providing a maximum value of the in-plane retardation and a measurement position providing a minimum value of the in-plane retardation is in a range not more than 10 mm or not less than 100 mm, and a difference between the maximum value and the minimum value (in-plane retardation variation) is less than 60 μm .

Doing so would provide a means for measuring the quality of the optical film, so as to assure there is reduction in color irregularities due to fluctuations in film quality that results in an improved display quality.

8. Claims 8, 16, 19, 22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusumoto et al. (JP 2001-091736) in view of Honda et al. (U.S. 2001/0033349 A1).

In regard to claim 8, Kusumoto et al. discloses all of the claimed limitations from above, but fails to disclose the polarizer according to claim 1, which is chip-cut.

However, Honda et al. teaches the polarizer according to claim 1, which is chip-cut (*see e.g. [0053]*).

Given the teachings of Honda et al., it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the polarizer of Kusumoto et al. with the polarizer is chip-cut.

Doing so would provide a polarizer, which is cut to size for use in a display material from the stretched bulk material using a well-known technique.

In regard to claims 16 and 22, Kusumoto et al. discloses all of the claimed limitations from above, but fails to disclose the liquid crystal display according to claims 15 and 21, which has a flat light source for emitting polarized light.

However, Honda et al. discloses a flat light source for emitting polarized light (*see e.g. paragraph [0038]*).

Given the teachings of Honda et al., it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the polarizer of Kusumoto et al. with a flat light source for emitting polarized light.

Doing so would provide a means of lighting the liquid crystal display apparatus using, which enhances the luminance of the display device.

In regard to claim 19, Kusumoto et al. discloses the above limitations, but fails to disclose

an in-house production method for producing the image display device according to claim 17, which comprises a process of chip-cutting at least a polarizer according containing a dichroic material in a matrix and immediately bonding to the display device.

However, Honda et al. teaches chip-cutting at least a polarizer according containing a dichroic material in a matrix (*see e.g. paragraph [0053]*) and immediately bonding to the display device (*see e.g. paragraph [0037]*).

Given the teachings of Honda et al., it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the polarizer of Kusumoto et al. with an in-house production method for producing an image display device comprising comprises a process of

chip-cutting at least a polarizer according containing a dichroic material in a matrix and immediately bonding to the display device.

Doing so would provide a means of manufacturing a liquid crystal display device having an increased luminance and polarizer film quality.

In regard to claim 25, Kusumoto et al. discloses all of the claimed limitations from above, but fails to explicitly disclose an in-house production method for producing the image display device according to claim 17, which comprises a process of chip-cutting at least an optical film comprising a polarizer, the polarizer containing a dichroic material in a matrix and immediately bonding to the display device.

However, Honda et al. teaches chip-cutting at least a polarizer according containing a dichroic material in a matrix (*see e.g. paragraph [0053]*) and immediately bonding to the display device (*see e.g. paragraph [0037]*).

Given the teachings of Honda et al., it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the polarizer of Kusumoto et al. with an in-house production method for producing an image display device comprising comprises a process of chip-cutting at least a polarizer according containing a dichroic material in a matrix and immediately bonding to the display device.

Doing so would provide a means of manufacturing a liquid crystal display device having an increased luminance and polarizer film quality.

9. Claims 11-13, 18 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusumoto et al. (JP 2001-091736) in view of Yoshimi et al. (JP 2001311826).

In regard to claim 11, Kusumoto et al. discloses the above limitations, but fails to explicitly disclose a pressure-sensitive adhesive layer is arranged on at least one outermost surface layer.

However, Yoshimi et al. teaches a pressure-sensitive adhesive layer is arranged on at least one outermost surface layer (*see e.g. abstract and paragraph [0037] of the English translation*).

Given the teachings of Yoshimi et al., it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the polarizer of Kusumoto et al. with a pressure-sensitive adhesive layer is arranged on at least one outermost surface layer.

Doing so would provide a commonly used means for attaching the polarizer to other layers of a display device.

In regard to claim 12, Kusumoto et al. discloses all of the claimed limitations from above, but fails to disclose the optical film according to claim 9, which further comprises at least either a polarization converter or a retardation film.

However, Yoshimi et al. teaches the optical film according to claim 9, which further comprises at least either a polarization converter or a retardation film 9 (*see e.g. abstract and paragraph [0007] of the English translation*).

Given the teachings of Yoshimi et al., it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the polarizer of Kusumoto et al. with the optical film further comprises at least either a polarization converter or a retardation film.

Doing so would provide an optical film that can compensate a liquid crystal display device, which improves the quality and viewing angle of the display.

In regard to claim 13, Kusumoto et al. discloses all of the claimed limitations from above, but fails to disclose the polarization converter is either an anisotropic reflective polarizer or an anisotropic light-scattering polarizer.

However, Yoshimi et al. teaches the polarization converter is either an anisotropic reflective polarizer or an anisotropic light-scattering polarizer (*see e.g. abstract and paragraph [0007] of the English translation*).

Given the teachings of Yoshimi et al., it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the polarizer of Kusumoto et al. with the polarization converter is either an anisotropic reflective polarizer or an anisotropic light-scattering polarizer.

Doing so would provide an optical film that can compensate a liquid crystal display device, which improves the quality and viewing angle of the display.

In regard to claim 18, Kusumoto et al. discloses all of the claimed limitations from above, but fails to disclose the image display device according to claim 17, which is an electroluminescent display.

However, Yoshimi et al. teaches the image display device according to claim 17, which is an electroluminescent display (*see e.g. paragraph [0013] of the English translation*).

Given the teachings of Yoshimi et al., it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the polarizer of Kusumoto et al. with an image display device using the polarizer is an electroluminescent display.

Doing so would provide a display that has increased luminance and viewing quality.

In regard to claim 24, Kusumoto et al. discloses all of the claimed limitations from above, but fails to disclose the image display device according to claim 23, which is an electroluminescent display.

However, Yoshimi et al. teaches the image display device according to claim 23, which is an electroluminescent display (*see e.g. paragraph [0013] of the English translation*).

Given the teachings of Yoshimi et al., it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the polarizer of Kusumoto et al. with an image display device using the polarizer is an electroluminescent display.

Doing so would provide a display that has increased luminance and viewing quality.

Response to Arguments

10. Applicant's arguments with respect to claims 1-3 and 5-26 have been considered but are moot in view of the new ground(s) of rejection.
11. In regard to independent claim 1, applicant's arguments that the previously applied prior art fails to disclose all of the limitations of claim 1, have been fully considered and are appreciated. However, the newly cited rejection discloses all of the limitations of claim 1, as cited above.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are cited for disclosing related limitations of the applicant's claimed and disclosed invention. Kusumoto et al. (U.S. 2002/0113922 A1) and Kusumoto et al.

(U.S. 7,006,174 B2) are cited for being English equivalents of Kusumoto et al. (JP 2001-091736).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSICA M. MERLIN whose telephone number is (571)270-3207. The examiner can normally be reached on Monday-Friday 6:30AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on (571) 272-1787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jessica M. Merlin
October 21, 2010

/Jessica M. Merlin/
Examiner, Art Unit 2871
/David Nelms/
Supervisory Patent Examiner, Art Unit 2871